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MEMO ENDORSED

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Via Facsimile and Overnight Mail:

Hon. Magistrate Judge Andrew J. Peck
United States District Court Judge
U.S. Courthouse Southern District of New York
500 Pearl Street,
New York, New York 10007

Agreed to by plaintiff's counsel 3/24/08
March 24, 2008
SO ORDERED:
[Signature]

Hon. Andrew J. Peck
United States Magistrate Judge

Re: **Jannie Pilgrim, Giovanna Henson, Jesan Spencer, Brenda Curtis v. The McGraw Hill Companies, Inc. Index No. Civil Action 07-6618 (CM)(THE) (RP)**

Dear Hon. Magistrate Judge Peck:

Our firm has received Defendant's application dated March 20, 2008 and your Honor's E-Mail and facsimile dated March 21, 2008. We received Defendant's papers while we were attending depositions in another matter. We were also in the process of obtaining affidavits from our clients in order to respond to the motion.

It is respectfully submitted that written documentary evidence supports that members of the African American Affinity Group, an ad-hoc group of African American employees, an employee initiated and organized non-corporate sponsored group of African American employees, including the Plaintiff Ms. Pilgrim, expressed to Terry McGraw, III, CEO and David Murphy, EVP of HR, their concerns about the disadvantages experienced by African American employees at work at McGraw-Hill; this was prior to Ms. Pilgrim's requiring an attorney's letter to Mr. McGraw, III, on August 18, 2005.

These employees, some of whom are named witnesses in this matter, expressed concerns directly to Mr. McGraw of employees making African American employees uncomfortable and ill at ease at work, of racially offensive remarks made by employees, including one who persisted in that pattern of behavior even after being admonished. They expressed the difficulties that African Americans were experiencing in lower performance ratings, low retention rates, and of a hostile work environment and the lack of EEO training.

Plaintiffs are prepared to accept your Honor's grant of preclusion on the condition that Mr. McGraw is not called as a Defendant's witness at trial or in connection with any motion. It is respectfully submitted that Plaintiffs reserve their right to respectfully seek the Court's intervention to depose Mr. McGraw if Defendant's witnesses "open the door" in any manner that would compel that his deposition is required under the circumstances. Thank you for your attention to this matter.

Respectfully submitted,

[Signature]
Lawrence Solotoff (LS1356)

Cc: Gregory Rasin, Esq. (via facsimile and mail)

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
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Dated: March 24, 2008

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TRANSCRIPTION:

MEMO ENDORSED 3/24/08

Def. application for protective order precluding pltf's deposition of Mr. McGraw granted. Def. also is precluded from calling Mr. McGraw as a witness at trial or on a motion. All parties have consented to this.

Copy to: Judge Colleen McMahon